

Trade Reporting and Compliance Engine (TRACE)

FINRA Reminds Firms of their Obligation to Report Accurately the Time of Execution for Transactions in TRACE-eligible Securities

Executive Summary

FINRA reminds firms of their obligation under FINRA Rule 6730 (Transaction Reporting) to accurately enter the “time of execution” for transactions on TRACE trade reports. The “time of execution” of a transaction in a TRACE-eligible security¹ generally is the time at which the parties to the transaction agree to all of the material terms sufficient to calculate the dollar price of the trade.²

Questions regarding this *Notice* should be directed to:

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Discussion

Rule 6730(c) (Transaction Information to Be Reported) sets forth the items of information required to be included in TRACE trade reports. Firms that are “parties to a transaction”³ in a TRACE-eligible security must report, among other things, the “time of execution”⁴ of the transaction, which generally is defined as the time when the parties to the transaction agree to all of the material terms sufficient to calculate the dollar price of the trade—*i.e.*, when there has been a “meeting of the minds” with regard to material terms such as price and quantity.

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Notice Type

- ▶ Guidance

Suggested Routing

- ▶ Compliance
- ▶ Fixed Income
- ▶ Legal
- ▶ Operations
- ▶ Systems
- ▶ Trading

Key Topics

- ▶ Fixed Income Securities
- ▶ TRACE
- ▶ Transaction Reporting

Referenced Rules

- ▶ FINRA Rule 6710
- ▶ FINRA Rule 6730



Importantly, the “time of execution” of a transaction is not necessarily the time that the trade information is entered into the firm’s processing system. For example, if a trade is executed on a firm’s trading desk at 10:01:30 a.m. Eastern Time (ET), but is not entered into the firm’s system until 10:45:00 a.m. ET, the “time of execution” to be reported to TRACE is 10:01:30 a.m. ET, not the time the firm entered the trade into its system at 10:45:00 a.m. Similarly, when a firm executes an inter-dealer transaction on behalf of a corresponding customer order, the firm may be required to report the same “time of execution” for both the inter-dealer and customer trades. For example, if the “meeting of the minds” with regard to the material terms of both the inter-dealer and customer transactions (sufficient to calculate the dollar price) occurred at 10:01:30 a.m. ET, the firm is required to report the same “time of execution”—*i.e.*, 10:01:30 a.m. ET—for both transactions.

In some instances, a firm may send an electronic notification to its counterparty providing the details of a trade that already has been agreed upon in all material respects. In such cases, the firm should not use the time the notification was sent as the “time of execution” on the TRACE transaction report, as the material terms were agreed upon prior to the time the notification was sent. As such, depending on the specific facts and circumstances, the “time of execution,” may not necessarily be the time the electronic notification was sent to the counterparty. For example, if a trade is agreed upon at 11:10:30 a.m. ET, but the electronic notification detailing the agreed upon trade is not sent to the firm’s counterparty until 11:35:00 a.m. ET, the “time of execution” of 11:10:30 a.m. ET is required to be reported to TRACE.

In addition, when a firm executes a transaction after TRACE system hours or on a non-business day,⁵ the time of execution, rather than the time that the trade report is submitted to TRACE, is required to be reported on the TRACE report. Thus, even where the TRACE rules permit firms to report a transaction on T+1, firms must accurately report both the “time of execution” and the date of trade execution on the TRACE transaction report.⁶

The “time of execution” for a transaction in a new issue is determined in the same manner as with secondary transactions. Therefore, the “time of execution” of a transaction in a new issue occurs when there is a “meeting of the minds” with regard to the material terms of the transaction.⁷ Thus, if a firm receives a firm commitment to purchase a TRACE-eligible security when it is issued, but prior to the final pricing or determination of other material terms of the new issue, the time of execution has not yet occurred. A “meeting of the minds” cannot occur before the final material terms, such as price, coupon and quantity have been established by the issuer, and such terms are known by the parties to the transaction.⁸

In the case of transactions involving TRACE-eligible securities that are trading “when issued” on a yield basis, the time of execution is when the yield for the transaction has been agreed to by the parties to a transaction. For a transaction in a TRACE-eligible security where the actual yield for the transaction is established by determining the yield from one or more designated securities (*e.g.*, a “benchmark security” such as a U.S. Treasury security maturing in 5 years, or a combination of such “benchmark securities”) and adding the agreed upon “yield spread” (*e.g.*, 150 basis points above the benchmark security), the time of execution also occurs when the yield has been agreed to by the parties.

Endnotes

1. Rule 6710(a) provides that a “TRACE-Eligible Security” is a debt security that is United States dollar-denominated and issued by a U.S. or foreign private issuer, and, if a “restricted security” as defined in Securities Act Rule 144(a) (3), sold pursuant to Securities Act Rule 144A; or is a debt security that is U.S. dollar-denominated and issued or guaranteed by an Agency as defined in paragraph (k) or a government-sponsored enterprise as defined in paragraph (n). “TRACE-Eligible Security” does not include a debt security that is: issued by a foreign sovereign, a U.S. Treasury security as defined in paragraph (p), or a money market instrument as defined in paragraph (o).
2. In 2005, the MSRB issued guidance clarifying the meaning of “time of trade” for purposes of transaction reporting. *See* MSRB Notice 2005-02 (January 10, 2005). MSRB recently issued a Regulatory Notice that included Q&As addressing its definition of “time of trade” for reporting transactions in municipal securities to the MSRB’s Real-time Transaction Reporting System. *See* MSRB Notice 2016-19 (August 9, 2016).
3. Rule 6710(e) defines “Party to a Transaction” as an introducing broker-dealer, if any, an executing broker-dealer, or a customer. “Customer” includes a broker-dealer that is not a FINRA member.
4. Specifically, Rule 6710(d) provides that the “time of execution” for a transaction in a TRACE-eligible security means the time when the parties to a transaction agree to all of the terms of the transaction that are sufficient to calculate the dollar price of the trade.
5. Rule 6730(a)(1)(C) provides that transactions executed on a business day less than 15 minutes before 6:30:00 p.m. ET must be reported no later than 15 minutes after the TRACE system opens the next business day (T+1), and if reported on T+1, designated “as/of” and include the date of execution.

Rule 6730(a)(1)(D) provides that transactions executed on a business day at or after 6:30:00 p.m. ET through 11:59:59 p.m. ET or on a Saturday, a Sunday, a federal or religious holiday or other day on which the TRACE system is not open at any time during that day (determined using Eastern Time) must be reported the next business day (T+1), no later than 15 minutes after the TRACE system opens, designated “as/of” and include the date of execution.
6. The date of trade execution is required to be entered on a transaction report only where the trade is reported on an “as/of” basis. *See* Rule 6730(c)(5).
7. *See* [TRACE Frequently Asked Questions](#) regarding the reporting of Corporate and Agency Debt, FAQ #4.14.
8. Firms are reminded that they should be clear in their communications regarding the final terms of a trade and how such terms will be conveyed between the parties. *See* [TRACE Frequently Asked Questions](#) regarding the reporting of Corporate and Agency Debt, FAQ #4.23.